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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,793

05/31/2006

Andreas Habermann

HM-655PCT

4009

40570 7590 07/20/2007  
FRIEDRICH KUEFFNER  
317 MADISON AVENUE, SUITE 910  
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EXAMINER

SUHOL, DMITRY

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

07/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/550,793

Applicant(s)

HABERMANN ET AL.

Examiner

Dmitry Suhol

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/22/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, there is no antecedent basis for "the mill floor level".

Additionally it is not clear as to how many transmissions are being claimed.

Regarding claim 2, it is not clear as to what the phrase "on both sides" refers to.

In other words on both sides of what structure?

Regarding claim 3, there is no antecedent basis for "the adjustment drives".

Regarding claim 4, there is no antecedent basis for "the receivers".

Regarding claim 6, there is no antecedent basis for "the first shaft", and "the stationary spur gear".

Regarding claim 7, there is no antecedent basis for "the stationary deflector plates".

Regarding claim 8, there is no antecedent basis for "the second shaft".

The remainder of the action considers the claims as best understood.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Malley '231 in view of Talbot '677. O'Malley discloses an edging mill containing all of the claimed elements including, vertical rolls (28) that may be adjusted relative each other (through screws 30) and are connected to a rotary drive (power source for shaft 39) and stationary transmissions (elements 38, 37, 35, 33, 34, 41, etc) through cardan shafts (47). A continuous drive shaft as required by claim 2 is read onto shaft (39), while bevel gears are shown as gearing (37) and (38) and spur gear are shown as gears (34). Adjustment drives are shown as screws (30). Lacking any clear distinguishing features, deflector plates, are read onto plates (67). As best understood, a second shaft is read onto shaft (35). Limitations of claim 8 is shown in figure 1.

Talbot is relied upon to teach that providing a motor (147) below a mill floor level (figure 5) to power transmissions (115, 177 and 111, 118) is known in the art.

***Allowable Subject Matter***

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/  
Primary Examiner  
Art Unit 3725

ds

10/550793

JC09 Rec'd PCT/PTO 22 SEP 2005

Sheet 1 of 1

Form PTO-1449

Docket No.: HM-655PCT Serial No.: ~~not known~~  
(PCT/EP04/02573)LIST OF PRIOR ART  
CITED BY APPLICANT

Applicant: Andreas Habermann, et al

Int. Filing Date: March 12, 2004 Group: 3725

## U.S. PATENT DOCUMENTS

Exam Init.	Document Number	Date	NAME	Class Subclass	Filing Date if appropriate
/DS/	AA	2 575 231	11/51	O'MALLEY	
	AB				
	AC				
	AD				
	AE				

## FOREIGN PATENT DOCUMENTS

	Document Number	Date	COUNTRY	Class Subclass	TRANSLATION Yes No
/DS/	AF	0 491 785	12/93	EUROPEAN	X
	AG				
	AH				
	AK				
	AL				

## OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

/DS/	AR	PATENT ABSTRACTS OF JAPAN, VOL. 0090, NO. 03 (M-349), JANUARY 9, 1985 & JP 59 156501 A (SUMITOMO JUKIKAI KOGYO KK), SEPTEMBER 5, 1984			
	AS				
	AT				

EXAMINER: /Dmitry Suhol/ (07/12/2007)

DATE CONSIDERED: 07/12/2007

<b>Notice of References Cited</b>	Application/Control No. 10/550,793	Applicant(s)/Patent Under Reexamination HABERMANN ET AL.	
	Examiner Dmitry Suhol	Art Unit 3725	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2,124,677	07-1938	TALBOT HOWARD H	72/248
*	B	US-4,441,352	04-1984	McDonagh et al.	72/249
*	C	US-4,329,864	05-1982	Ledebur, Harry C.	72/239
*	D	US-2,513,058	06-1950	O'MALLEY JOSEPH M; et. al.	72/249
*	E	US-1,880,468	10-1932	NYE RALPH D	72/249
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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